



11-3-05

AF/ILW
\$

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays an OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
3191E-000001/COF

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

Application Number
10/662,127

Filed
September 12, 2003

First Named Inventor
Joseph A. Lang

On November 2, 2005

Signature

Art Unit
3683

Examiner
Melanie Torres

Typed or printed name Joseph M. Lafata / Brian D. Hollis

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 37,166 / 51,075.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Signature

Joseph M. Lafata / Brian D. Hollis

Typed or printed name

248-641-1600

Telephone number

November 2, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

EV 717 344 684 US



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/662,127
Filing Date: September 12, 2003
Applicant: Joseph A. Lang et al.
Group Art Unit: 3683
Examiner: Melanie Torres
Title: GOLF CAR HAVING DISK BRAKES AND
SINGLE POINT LATCHING BRAKE
Attorney Docket: 3191E-000001/COF

Mail Stop AF
Director of The United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

**ATTACHMENT TO PRE-APPEAL BRIEF REQUEST FOR
REVIEW AND PETITION FOR EXTENSION OF TIME**

Sir:

In response to the Final Office Action mailed June 2, 2005, please consider the remarks set forth below.

Applicant hereby petitions under the provisions of 37 C.F.R. § 1.136(a) for an extension of time in which to respond to the outstanding Office Action and includes a fee as set forth in 37 C.F.R. § 1.17(a) with this response for such extension of time.

Remarks begin on page 2 of this paper.

REMARKS

Claims 20 – 40 are pending in the application. Claims 25, and 27 – 31 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,588,335 (Strait). Claims 20, 22, 23, 25, 27 – 32, 34, 35, and 37 – 40 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,092,617 (White). Claims 20, 22 and 23 stand rejected under 35 U.S.C. § 103(a) as being anticipated by Strait. Claims 21, 24, 26, 33 and 36 stand rejected under 35 U.S.C. § 103(a) as being anticipated by Strait or White in view of U.S. Pat. No. 4,310,064 (Kazarian).

Appellants respectfully submit that the Examiner has omitted one or more essential elements needed for a prima facie case of anticipation or obviousness and as such, the review of this submission in a panel review is appropriate.

Appellants initially note that Claims 20, 23, 25, 28, 30, 32, 35, 37 and 39 each include limitations directed toward a locking mechanism providing a single audible indication to an operator that the brake pedal has been depressed sufficiently to be latched. The Examiner has failed to provide support in any of the references that disclose such a feature. Instead the Examiner has merely stated "it is the Examiner's position that it is possible to depress the brake pedal of both Strait or White such that only a single latch is engaged, thus, providing a single audible indication" (Page 5, Final Office Action mailed June 2, 2005).

In *W.L. Gore & Associates v. Garlock, Inc.*, the Federal Circuit stated that "anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Appellants submit that neither the

'335 patent to Strait, nor the '617 patent to White disclose a brake system having a locking mechanism providing a single audible indication to an operator that the brake pedal has been depressed sufficiently to be latched. As such, Appellants submit that the Office has not presented a prima facie case of anticipation. Appellants, therefore, respectfully request that the Office reconsider and withdraw the rejection of claims 25 and 27 – 31 under 35 U.S.C. § 102(b) and claims 20, 22, 23, 25, 27 – 32, 34, 35, and 37 – 40 under 35 U.S.C. § 102(e).

Appellants also note that claims 21, 24, 26, 33 and 36 depend from claims 20, 23, 25, 32 and 35 respectively, and as such, should be in condition for allowance for the reasons set forth above. Additionally, the combination of references cited by the Office in support of the rejection of claims 21, 24, 26, 33 and 36 does not teach or suggest all elements of these claims, and as such, the Office has not presented a prima facie case of obviousness.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: November 2, 2005

By: 

Brian D. Hollis, Reg. No. 51,075

Joseph M. Lafata, Reg. No. 37,166

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

BDH:cr